

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

06 CR 1436 LH

DANIEL JESUS LEMOS,

Defendant.

DEFENDANT'S OPPOSED MOTION TO SET CONDITIONS OF RELEASE

COMES NOW the defendant, Daniel Jesus Lemos, through his attorney of record, Phillip Medrano, Assistant Federal Public Defender, and moves the court for an order setting conditions of release to allow the defendant to return to the New Mexico State Penitentiary to complete the remaining three to four weeks of his state sentence and as grounds, states:

1. The defendant was arraigned in this matter on February 16, 2007. At the time of the arraignment, he waived a detention hearing reserving the right to have a future detention hearing.

2. Defendant now requests a hearing to review his conditions of release.

3. Additionally, the defendant is being held at the Torrance County Detention Center under onerous conditions which involve solitary confinement under the guise of protective custody and restricted recreation where the defendant is only allowed recreation alone. Defense counsel has several times requested the Marshals Service to explain why the

defendant is held under these conditions of detention without any response from the Marshals Service.

4. Because of these onerous conditions of detention, defendant requests that he be allowed to complete his state penitentiary prison time of approximately one month.

5. Defense counsel is not requesting that the defendant be released into the public; just that he be allowed to complete his state sentence and that upon completion of his sentence he be returned to the custody of the U.S. Marshals Service.

6. Defense counsel had previously requested the government's concurrence in this matter, but Assistant U.S. Attorney Rumaldo Lujan indicated he would not concur in the recommendation that the defendant be returned to complete his sentence at the state penitentiary in Santa Fe.

7. Therefore, an evidentiary hearing is requested in this matter.

WHEREFORE, the defendant respectfully requests that the court set conditions of release that will allow him to complete his state sentence and then return to the custody of the U.S. Marshals Service.

Respectfully submitted,

I hereby certify that a true copy of the foregoing was delivered to AUSA Rumaldo Lujan this 1st day of March, 2007.

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Electronically Filed

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